

S/N 10/728,203

Response to Office Action Dated 05/07/2004

**REMARKS**

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application. This amendment is believed to be fully responsive to all issues raised in the 05/07/2004 Office  
5 Action.

Claims 1—24 were originally filed.

No claims are canceled or withdrawn.

Claims 1 and 11 are amended without prejudicing the Applicant's right to file the same or similar claims in the future.

10 No claims are added.

Accordingly, claims 1—24 are currently pending.

**Drawings Amendments**

The drawings were not amended. The Office Action of 05/07/2004  
15 indicated that the drawings were accepted by the Examiner.

**Double Patenting**

Claims 1—4, 6—7, 8—13, 15—17 were rejected under the judicially created doctrine of obviousness-type double patenting over claims of U.S.  
20 Patent No. 6,682,164. Applicant includes a terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome the non-statutory double patenting rejection.

**35 U.S.C. §102**

Claims 1—3, 6—9, 11—13, 15—20, 23—24 were rejected under 35  
25 U.S.C. 102(b) as being anticipated by United States Patent 5,900,889, herein after Tsukuda or the '889 reference.

Claims 1 and 11 have been amended to recite the final paragraph previously seen in claim 18, reproduced immediately below:

30 wherein the modifying includes increasing or decreasing the level of servicing based in part on an estimated age of the service station.

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Claims 1, 8, 11, 17, 18 and 24 and the reasons for their rejection are therefore addressed as a group. Claims 1, 8, 17, 18 and 24 recite an "age factor" or an "estimated age" of the service station. In rejecting these claims under section 102, the Patent Office points to the Tsukuda '889 reference. In particular, the Patent Office points to FIG. 4, step S-13, S-19 "read time."

The '889 reference discloses reading a step wherein the current time,  $t$ , is read. That is, the current time is read. In blocks S-14 and S-20, the last ink ejection time  $t_0$  (see col. 7, line 66 of the '887 reference) is subtracted from the current time  $t$ , yielding a time period. Where this time period is greater than a time interval  $t_1$ , the recovery is processed, e.g. S15—18 and S21—24.

Note that none of these time periods—the current time  $t$ , the last ejection time  $t_0$  and the threshold time period  $t_1$ —has anything to do with the age of anything. In particular, none of these time periods discloses "an estimated age of the service station." Instead,  $t$ ,  $t_0$  and  $t_1$  relate to measurement of a time since something (the recovery) was last performed.

Thus, the time periods  $t$ ,  $t_0$  and  $t_1$  which were disclosed by the Tsukuda '889 reference do not in any way represent the age of any device. Instead, the time periods are used to calculate the time period between ink ejections (col. 8, lines 53—59 of the '889), and to compare the time periods to thresholds (table 1).

Accordingly, the Applicant respectfully suggests that the section 102 rejection of claims 1, 8, 17, 18 and 24 is inappropriate, and asks that it be withdrawn.

Claims 2—3, 6—7, 12—13, 15—16, 19—20 and 23 were rejected under section 102 as being anticipated by the Tsukuda '889 reference. However, these claims depend from claims 1, 11 or 18, which are allowable for the reasons seen above. Additionally, each of these claims is allowable due to the elements recited.

Claim 17, for example, in its original form, recites a "service station". Additionally, claims 1 and 11, as amended, also recite a "service station".

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However, the Tsukuda reference does not disclose a service station. Accordingly, the section 102 rejection of these claims was inappropriate, since the cited reference does not show each and every element of the claims.

Claim 9 recites:

- 5                    wherein said event tracking step comprises tracking a number of printhead spits into said service station.

The Patent Office rejected claim 9 under a section 102 argument, stating that column 7, lines 15—22 of the '889 reference disclosed this material. However, this section recites that preliminary ejection performed into cap 11.

- 10    As a result, the cited passage does not in any way disclose "tracking a number of printhead spits into said service station." That is, no mention is made of *tracking printhead spits* and no mention is made of a *service station*. Accordingly, the Applicant respectfully requests that the section 102 rejection be removed, and that these claims be allowed.

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35 U.S.C. §103

Claims 5, 14 and 21 were rejected under 35 U.S.C. §103 as being unpatentable over the Tsukuda '889 reference in view of U.S. patent 6,312,087, herein after the Imai or '087 reference.

- 20                    Claims 5, 14 and 21 recite in part "performing a greater degree of service operation in response to said tracked number of occurrences of said at least one event being less than or equal to said second predetermined value." The Patent Office asserts that Fig. 7 of the Imai '087 reference makes this disclosure.

- 25                    However, the Applicant suggests that the Patent Office has misinterpreted Fig. 7. In particular, Fig. 7 discloses a six-part system for purging. That is, Fig. 7 does not disclose three ways to perform a purging operation depending on conditions; instead, Fig. 7 discloses how a "present purge" (see S3) is preformed by looping through steps S4, S6 and S8 six times.
- 30    In particular, after initially confirming that a purge is warranted (S1—S2), the first of purge is performed (S3—S4). At S9, since all six parts of the purge

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haven't been completed, we go to S3, where (since we are on the second purge) we go to S6 and S7. S6 and S7 are repeated, and then S8 is performed three times. Thus, Fig. 7 does not stand for the proposition that greater or lesser servicing is performed in response to a tracked number. Instead, Fig. 7 stands  
5 for the proposition that, if we need to purge, we do the purge in a six-part manner.

Since the Imai '087 reference does not disclose "performing a greater degree of service operation in response to said tracked number of occurrences" Imai fails to remedy the deficiencies of Tsududa. Accordingly, the Applicant  
10 respectfully requests that the section 103 rejection be removed, and the claims be allowed.

Claims 10 and 22 were rejected under 35 U.S.C. §103 as being unpatentable over the Tsukuda '889 reference in view of U.S. patent 6,719,400, herein after the Inui or '400 reference.

15 Claims 10 and 22 depend from claim 1 and (ultimately) from claim 18, respectively. These claims are allowable by virtue of their dependence on claims which are allowable for the reasons seen above, and are also allowable for reasons based on the elements recited in each claim.

Claim 4 was rejected under 35 U.S.C. §103 as being unpatentable over  
20 the Tsukuda '889 reference in view of U.S. patent 5,172,140, herein after the Hirabayashi or '140 reference.

Claim 4 depends from claim 1. This claim is allowable by virtue of its dependence on claim 1, which is allowable for the reasons seen above, and is also allowable for reasons based on the elements recited in the claim.

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### Conclusion

Claims 1—24 are in believed to be in condition for allowance. Accordingly, the Applicant respectfully requests prompt issuance of the present application. Should any issue remain that prevents immediate issuance of the  
30 application, the Examiner is encouraged to contact the undersigned attorney to discuss the unresolved issue.

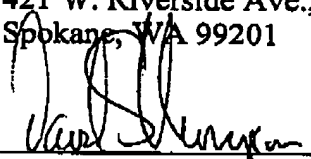
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